

400 KAR 4:110. Definitions for 400 KAR 4:120 to 4:140.

RELATES TO: KRS 146.220, 146.241, 146.250, 146.260, 146.270, 146.290, 146.310, 146.350, 146.360

STATUTORY AUTHORITY: KRS 146.270, 224.01-110, 224.10-100

NECESSITY, FUNCTION, AND CONFORMITY: KRS 146.270 authorizes the secretary to adopt rules and administrative regulations necessary for the preservation and enhancement of wild rivers as set forth in KRS 146.250, and for control of recreational, educational, scientific and other uses of these areas in a manner that shall not impair them. Emphasis shall be given to protecting aesthetic, scenic, ecological, historic, archaeological and scientific features of the areas. This administrative regulation defines certain essential terms used in the wild rivers administrative regulations, 401 KAR 4:120 to 4:140, which are not clearly defined by their context. Terms not defined below have the meaning given to them in relevant statutes or, if not defined in statutes, the meaning attributed by common use.

Section 1. (1) "Access road" means that access constructed or improved to connect a permitted use within a wild river corridor to a public road system.

(2) "Acid-forming substance" means an earth substance that contains sulfide minerals or other materials which, if exposed to air, water, or weathering processes, forms acids that may create acid water.

(3) "Acid water" means drainage with a pH of less than six (6.0) in which total acidity exceeds total alkalinity.

(4) "Adverse impact" means having a damaging, degrading or destructive effect on a resource.

(5) "Agricultural use" means the use of land for agricultural purposes including, but not limited to farming, dairying, pasturage, apiaries, horticulture, floriculture, viticulture, and animal and poultry husbandry.

(6) "Applicant" means the landowner who applies for a change of use permit to allow a change of land use within a wild river corridor.

(7) "Best management practices" means methods, measures or practices to prevent or reduce water pollution, including, but not limited to, structural and nonstructural controls, and operation and maintenance procedures which may be applied before, during or after pollution-producing activities to reduce or eliminate the introduction of pollutants into waterbodies.

(8) "Buffer zone" means an area of natural vegetation having a minimum width of not less than 100 feet, which is retained along each bank of a wild river to maintain aesthetics, bank stability, appropriate water temperatures, fish and wildlife habitat, and stream hydraulics, and to filter debris and waterborne pollutants from surface run-off.

(9) "Cabinet" means the Environmental and Public Protection Cabinet.

(10) "Change of use permit" means a permit issued to a landowner by the secretary to authorize a change of land use within a wild river corridor.

(11) "Commercial service" means the use of a wild river corridor for monetary profit, including, but not limited to, concessions, boat rentals, shuttle services, guided trips or tours, commercial boat docks, wharves and other recreational facilities.

(12) "Conforming land use" means a land or resource use which conforms to the provisions and intent of the Kentucky Wild River Act and the management plan developed pursuant to KRS 146.270 for a given wild river corridor.

(13) "Cultural character" means the condition, composition, and/or appearance of an archaeological or historical feature which contributes to its outstanding, unique or otherwise significant value.

(14) "Disturbed area" means an area having a manmade surface disturbance.

(15) "Division" means the Division of Water.

(16) "Existing use" means a land use which is in existence at the time a wild river is designated by the Kentucky General Assembly.

(17) "Flood plain" means the area in a watershed that is subject to flooding at least one (1) time in every 100 years.

(18) "Kentucky Wild Rivers Act" means KRS 146.200 to 146.360, as amended.

(19) "Landowner" means the owner of a property or an interest in a property conveyed by lease or other legal conveyance.

(20) "Land use plan" means a plan of action submitted to the cabinet as part of a change of use permit application.

(21) "Log landing" means a collecting point for holding cut timber.

(22) "Management plan" means the individual plan adopted by the cabinet pursuant to KRS 146.270 as the official document guiding the management and protection of a given wild river corridor.

(23) "Natural character" means the condition or appearance of an area or resources which may be expected to exist in nature undisturbed by human actions.

(24) "Natural vegetation" means the species, or combinations of species, of plants which exist, or may be expected to exist, in nature undisturbed by human actions.

(25) "New land use" means a land use within a wild river corridor which is not in existence at the time a given wild river corridor is designated by the Kentucky General Assembly.

(26) "Operator" means the person, partnership, contractor, subcontractor, company or corporation responsible for the construction, maintenance, operation and reclamation of a permitted use.

(27) "Permitted use" means a nonconforming land use within a wild river corridor which has been authorized by the secretary through the issuance of a change of use permit.

(28) "Permittee" means a landowner who has obtained a change of use permit from the cabinet.

(29) "Produced water" means water and pollutants and combination thereof resulting, obtained or produced from the exploration, drilling or production of oil or gas.

(30) "Professional forester" means a person holding a degree in forestry from a school with an accredited forestry program.

(31) "Research plan" means a plan of action submitted to the cabinet for approval prior to initiating a scientific study within a given wild river corridor.

(32) "Resource removal" means exploration for, extraction or removal of a natural resource including, but not limited to, coal, oil and gas, minerals, rock, gravel, sand and soil.

(33) "Secretary" means the Secretary of the Environmental and Public Protection Cabinet.

(34) "Selective cutting (of timber)" means the selective removal during one (1) entry of single trees from an area such that a specified minimum residual stocking level is retained and evenly distributed over the harvest area. The purpose of the cut is to create or maintain an uneven-aged stand of timber.

(35) "Significant feature" means an outstanding, unique, rare or otherwise significant aesthetic, scenic, botanical, zoological, geological, historical, archaeological, scientific or recreational feature which is identified in the management plan or by the management agency as occurring within a given wild river corridor.

(36) "Skid" means to transport logs by sliding or dragging along the ground.

(37) "Skid trail" means a trail developed for the purpose of skidding logs from the stump to a log landing area.

(38) "Slash" means the residue left after the economically usable portion of cut trees is removed from a harvest area.

(39) "Structure" means an aboveground object constructed, built or installed for a change of use, and shall exclude sediment ponds, roads and signs.

(40) "Surface disturbance" means any disturbance of the ground surface which involves the clear-

ing of vegetation or excavation of soil, rock or other materials occurring on or near the ground surface.

(41) "Surface mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, construction, or other use; but shall not include those aspects of deep mining not having significant effect on the surface, and shall not include excavation or grading when conducted solely in aid of on-site farming or construction.

(42) "Toxin-forming substance" means earth materials or wastes which, if exposed to air, water, weathering, or microbiological processes, are likely to produce conditions that are detrimental to biota or uses of water.

(43) "Underground mining" means those aspects of deep mining, including surface effects, involving any open pit or any underground workings from which minerals, ores or other solid matter is removed for sale, exchange, commercial, or other use, and all shafts, drifts, or inclines leading thereto, including all buildings and equipment, above or below the surface of the ground, used in connection with such workings.

(44) "Visual intrusion" means resulting in the disruption, degradation or impairment of the natural or primitive appearance of an area in a wild river corridor, as viewed from the river or other designated public use area, and includes any land use that does not remain visually subordinate to the characteristic landscape.

(45) "Watershed" means that area enclosed by a topographic divide from which direct surface run-off from precipitation normally drains by gravity into the stream above a specified point.

(46) "Wild river" or "wild river corridor" means a stream segment and adjacent shoreland within boundaries set forth in 401 KAR 4:100 which are designated in accordance with KRS 146.241.

(47) "Wild rivers system" means the collective wild rivers as designated in KRS 146.241 and amendments. (15 Ky.R. 693; Am. 991; eff. 10-26-88; Recodified from 401 KAR 4:110, 12-21-2017.)